

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Request for Review of a Decision of the Universal)	CC Docket No. 02-6
Service Administrator)	

REQUEST FOR REVIEW AND PETITION FOR WAIVER

AJ Burton
FRONTIER COMMUNICATIONS
1800 M Street, NW, Suite 800N
Washington, D.C. 20036

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Pursuant to sections 1.3 and 54.719 of the Commission’s rules, Frontier Communications Corporation (“Frontier”) hereby requests review of the Universal Service Administrative Company’s (“USAC”) decision to completely deny over \$550,000 in funding to Frontier, the Bridgeport Public School District (“Bridgeport”), and the Hartford Public School District (“Hartford”) and, to the extent necessary, petitions for waiver of the Commission’s rule requiring an appeal of a USAC decision within 60 days.¹

This Request for Review and Petition for Waiver involves a couple of straightforward procedural issues. First, the Commission has repeatedly recognized that delay in responding to a USAC request for information is not a grounds for complete denial of funding, and the Commission routinely authorizes parties to correct this type of issue.² USAC, however, denied over \$400,000 in funding, even though Frontier continued corresponding with the requestors from USAC, and USAC did not directly respond to Frontier’s continued submissions and inquiries. Indeed, USAC denied this funding even though there is no allegation that Bridgeport, Hartford, or Frontier engaged in any wrongdoing. There is no allegation that Frontier failed to

¹ See 47 C.F.R. § 54.720(b).

² See, e.g., *Requests for Review of the Decision of the Universal Service Administrator by Alpaugh Unified School District et al.*, 22 FCC Rcd 6035 (2007) (“*Alpaugh Unified*”).

deliver services to Bridgeport or Hartford or that Frontier failed to submit all required paperwork under the program, and there is no allegation of any misuse of funds or violation of any core program requirement.

Second, due to a very minor ministerial and clerical error, USAC denied over \$120,000 in invoices related to Bridgeport. Specifically, there was a calculation error, and Frontier inadvertently requested \$187.85 too much in funding, or 0.1% too much out of a total request of \$122,830.05. The Commission routinely allows applicants to correct this type of error.

Third and relatedly, in the case of Bridgeport, Frontier resubmitted the relevant invoices prior to the expiration of the extended invoice deadline. Due to a processing error, however, USAC apparently did not register the invoices as received until after the deadline, and USAC denied funding because it said (erroneously) that it did not receive the invoices in time.

Frontier thus requests that the Commission allow Frontier an opportunity to fully respond to USAC's information requests, direct USAC to process the invoices Frontier timely resubmitted, allow Frontier to correct the ministerial and clerical error associated with certain Bridgeport invoices, and, to the extent necessary, grant any waivers so that the funding for Bridgeport, Hartford, and Frontier is processed.

I. BACKGROUND

Frontier Communications³ is proud to serve Bridgeport⁴ and Hartford⁵ as part of the E-Rate program. In Funding Year 2014, Frontier delivered over \$640,000 worth of services to

³ In Connecticut, Frontier operates under the subsidiary The Southern New England Telephone Company, SPIN # 143001305.

⁴ Bridgeport Public School District, Billed Entity Number #122549

⁵ Hartford Public School District, Billed Entity Number # 122325

Bridgeport, Hartford, and their students.⁶ As explained further below, over \$550,000 in E-Rate funding was denied from Bridgeport, Hartford, and Frontier even though Frontier, Bridgeport, and Hartford had submitted all forms required by the program and even though Frontier was in continued correspondence with the requestors from USAC who had issued requests for information. Despite no finding of wrongdoing or other program violation, over \$550,000 in funding to Bridgeport, Hartford, and Frontier was denied.

The relevant information regarding the unpaid SLD Invoices are as follows:

SPIN #	143001305 (The Southern New England Telephone Company)
BEN #s	122325 (Hartford Public School District) 122549 (Bridgeport Public School District)
471 #s	951343 (Hartford) 957825 (Bridgeport)
FRN #s	2667436 & 2667448 (Hartford) 2626335 & 2626381 (Bridgeport)
Funding Year	2014
Schools and Libraries Division (“SLD”) Invoice #s	2225753, 2214572, 2209416 (Hartford) 2264336, 2225753, 2214572, 2209416, 2267995, 2264336 (Bridgeport)

A. Frontier’s Continued Communication During the Course of USAC’s Request for Information With Limited Direct Responses from USAC.

Frontier submitted all required forms to receive funding for these invoices related to the services it provided. Before receiving funding, however, Frontier received further requests for information from USAC regarding backup material for these relevant SLD invoices. Although Frontier provided extensive information and was in active correspondence with USAC, Frontier was never directly notified that the funding had been completely rejected.

⁶ Form 471 # 939397; FRN #s 2637300, 2637337, & 2637344.

As shown in the attached correspondence related to the requests for information,⁷ Frontier was actively responding to the requestors' inquiries associated with these invoices. Indeed, in most cases, Frontier responded by the requested due date with most of the requested forms. In some cases, Frontier sent all of the remaining requested forms shortly after USAC's requested due date. Frontier also sent follow up inquiries regarding the status of USAC's requests for information. Frontier, however, never received a direct response to its status inquiries, a direct notification that all funding had been denied, or a direct notification that additional information was required following Frontier's final responses. Instead, funding was completely denied through an Electronic Remittance Statement,⁸ and representatives of Frontier did not understand that the requestors would never communicate a formal decision, particularly in response to direct inquiries.⁹ Indeed, Frontier communicated with the requestors after the Electronic Remittance Statement was issued, and the requestors never indicated that the funding had been denied.

Without realizing that the requestors would not send a direct email to Frontier regarding the decision as to its funding,¹⁰ Frontier continued to provide information and continued to request further status updates to no avail. Frontier communicated with the requestors after the Electronic Remittance Statement was issued, and the USAC requestors never indicated that the funding had been denied. To take just a couple of examples, Frontier sent the USAC requestor

⁷ See Letter from Jessica Matushek, Frontier, to USAC (May 20, 2016) (Attachment 1 at pp. 12-49) ("*Frontier Hartford Appeal*"); see also Bridgeport and Hartford Correspondence (Attachment 3 at pp. 90-161).

⁸ See, e.g., *Frontier Hartford Appeal* (Attachment 1 at pp. 6-10).

⁹ See Statement of Jennifer Oleniak.

¹⁰ See *id.*

the relevant bills associated with SLD Invoice # 2225753 on October 2, 2015¹¹ – the paperwork that was apparently the basis for denying the funding for this SLD Invoice – and the USAC requestor did not write Frontier back to tell Frontier that funding had been denied or to indicate that the requestor would not review the bills at issue. Similarly, Frontier sent the USAC requestor two inquiries regarding SLD Invoice # 2209416 – one on September 3, 2015, and one on October 8, 2015 – and Frontier did not receive a response that more paperwork was needed or that its funding would be or had been denied.¹²

The following table is a complete record of Frontier’s further correspondence and its good faith attempts to submit the necessary documentation and the lack of direct response from USAC requestors.¹³

* * *

¹¹ See Email from Jennifer Oleniak, Frontier, to Kyle Generale, USAC (October 2, 2015) (Attachment 3 at p. 93).

¹² Email from Jennifer Oleniak, Frontier, to Melissa Brown, USAC (Sept. 3, 2016) (Attachment 3 at p. 149); Email from Jennifer Oleniak, Frontier, to Melissa Brown, USAC (Oct. 8, 2016) (Attachment 3 at p. 154). USAC never responded.

¹³ See Statement of Jennifer Oleniak.

<u>SLD Invoice #</u>	<u>FRN</u>	<u>Disc. Amt. Requested</u>	<u>Req. for Info. Due Date</u>	<u>Rejection Comment</u>	<u>Frontier's Further Correspondence and Lack of Response from USAC Requestors</u>
2225753	2626335 (Bridgeport)	\$2,618.00	9/1/2015	Incomplete documents provided for review	Although Frontier submitted a response to the request for information on September 1, 2015, ¹⁴ it never received a response requesting additional materials or notifying it that its claim would be denied. Frontier followed up with a copy of a bill and inquired further on October 5, 2015 and never received a response. ¹⁵ Additionally, as to the two Hartford FRNs, the request for information instructions ask a respondent to only provide copies of bills if there are less than 20 bills. With more than 20 bills, Frontier had properly summarized the bills on the required worksheet and never received a request for a specific sampling of bills.
	2667436 (Hartford)	\$43,967.37		No bills received	
	2667448 (Hartford)	\$12,403.34		No bills received	
2214572	2626335 (Bridgeport)	\$2,618.00	8/4/2015	Service receipt not confirmed by applicant	Frontier submitted its initial response on August 3, 2015. ¹⁶ Although Frontier submitted a status inquiry on September 3, 2015 ¹⁷ and again on October 8, 2016, ¹⁸ USAC never responded to this correspondence or indicated that funding had been denied.
	2667436 (Hartford)	\$10,180.93		Service cert received but invalid	
	2667448 (Hartford)	\$153,890.26		Service cert received but invalid	
2209416	2626335 (Bridgeport)	\$2,618.00	7/24/2015	Service receipt not confirmed by applicant	Frontier originally submitted the forms on July 24, 2015, ¹⁹ and followed up with updated service certifications on August 24, 2015, and August 25, 2015. ²⁰ Frontier inquired as to the status of this payment on September 3, 2015, ²¹ and again on October 8, 2015. ²² After Frontier filed its updated service certification, USAC never responded to this correspondence or indicated that funding had been denied.
	2667448 (Hartford)	\$11,714.85	7/24/2015	Service receipt not confirmed by applicant	
2264336	2626335 (Bridgeport)	\$81,547.23	10/26/2015	No response from service provider	Although Frontier submitted a response to the request for information on November 30, 2015, ²³ it never received a direct response or an indication that funding had been denied.
	2626381 (Bridgeport)	\$109,093.87	10/26/2015	No response from service provider	
2267995	2626381 (Bridgeport)	\$5,911.10	10/31/2015	No response from service provider	Frontier submitted a series of invoices on March 18, 2016 and never heard a response. ²⁴
		<u>\$436,562.95</u> ²⁵			

¹⁴ See Email from Jennifer Oleniak, Frontier, to Kyle Generale, USAC (September 1, 2015) (Attachment 3 at p. 90).

¹⁵ See Emails from Jennifer Oleniak, Frontier, to Kyle Generale, USAC (October 5, 2015) (Attachment 3 at p. 97).

¹⁶ See Email from Jennifer Oleniak, Frontier, to Michael Ciccone, USAC (Aug. 3, 2015) (Attachment 3 at p. 101).

¹⁷ See Email from Jennifer Oleniak, Frontier, to Michael Ciccone, USAC (Sept. 3, 2015) (Attachment 3 at p. 131).

¹⁸ See Email from Jennifer Oleniak, Frontier, to Michael Ciccone, USAC (Oct. 8, 2015) (Attachment 3 at p. 136).

¹⁹ See Email from Jennifer Oleniak, Frontier, to Melissa Brown, USAC (July 24, 2015) (Attachment 3 at p. 142).

²⁰ See Emails from Jennifer Oleniak, Frontier, to Melissa Brown, USAC (Aug. 24 & 25, 2015) (Attachment 3 at p. 145).

²¹ See Email from Jennifer Oleniak, Frontier, to Melissa Brown, USAC (Sept. 3, 2015) (Attachment 3 at p. 149).

²² Email from Jennifer Oleniak, Frontier, to Melissa Brown, USAC (Oct. 8, 2015) (Attachment 3 at p. 154).

²³ Email from Jennifer Oleniak, Frontier, to Michael Ciccone, USAC (Nov. 30, 2015) (Attachment 3 at p. 159).

²⁴ Email from Jennifer Oleniak, Frontier, to Michael Ciccone, USAC (Mar. 18, 2016) (Attachment 3 at p. 160).

²⁵ As explained immediately below, USAC also denied an additional \$122,830.05 related to Bridgeport (Form 471 Application Number 957825, FRN 2626381) due to a ministerial and clerical calculation error. In any event, Frontier timely resubmitted the invoices.

In other words, although Frontier provided all relevant paperwork before receiving a request for information and was in good faith contact with USAC throughout the request for information, including requesting updates regarding the payments, the requestors did not inform Frontier that its funding had been denied or that it had to refile for USAC to review the paperwork. Frontier did not discover that USAC had in fact rejected funding until after the extended date that USAC had granted for submitting these invoices – February 25, 2016.²⁶

B. Frontier Also Resubmitted Relevant Bridgeport Invoices on Time.

As Frontier explained in its appeal, for the Bridgeport invoices at issue, Frontier resubmitted the invoices for review prior to the February 25, 2016 deadline.²⁷ Specifically, Frontier submitted the relevant invoices by email on February 25, 2016 at 4:39 PM.²⁸ Frontier did not receive any notification that that these submission were not received on time. On March 3, 2016, however, Frontier received an Electronic Remittance Statement²⁹ indicating, without explanation, that the invoices at issue were received February 29 rather than February 25 – the time of the email submission.

C. A Portion of the Bridgeport Invoices Were Denied Due to a Ministerial Error Related to Calculating the Discounted Portion.

While Frontier, Bridgeport, and Hartford were denied \$436,562.95 at issue due to miscommunications during the USAC request for information process, even though Frontier remained in active communication with USAC in an effort to comply with the requests, an

²⁶ See Declaration of Jennifer Oleniak.

²⁷ See Letter from Jessica Matushek to USAC (May 20, 2016) (“*Frontier Bridgeport Appeal*”) (Attachment 2).

²⁸ See *id.* (Attachment 2 at pp. 72-73).

²⁹ See *id.* (Attachment 2 at p. 74).

additional \$122,830.05 in funding was denied to Frontier and Bridgeport due to a ministerial error. Specifically, Frontier requested discounted funding of \$122,830.05, but this funding was denied because it was a fraction of a percent more than the approved 88% discount – Frontier, due to a calculation error, had inadvertently requested \$187.85 too much in funding, or 0.1% too much out of a total request of \$122,830.05.³⁰ Frontier timely resubmitted these invoices along with the other Bridgeport invoices in advance of the deadline, but, as explained above, these invoices were denied due to USAC erroneously processing these invoices as submitted days after when they were actually submitted.

D. Frontier’s Appeals and USAC’s Decisions.

Frontier filed appeals explaining these facts on May 20, 2016.³¹ Frontier had similar issues with receiving funding for two other Connecticut school districts and filed similar appeals.³²

On July 7, 2016, Frontier received responses from USAC denying Frontier’s appeals.³³ USAC did not discuss Frontier’s claims on appeal, instead simply explaining that Frontier was not entitled to a second extension. Frontier, however, only requested a second extension “to the extent necessary” to cure any deficiencies. USAC, did not, for example, address any of Frontier’s claims that the Bridgeport invoices were resubmitted before the February 25, 2016

³⁰ See Statement of Jennifer Oleniak.

³¹ See *Frontier Hartford Appeal* (Attachment 1); *Frontier Bridgeport Appeal* (Attachment 2).

³² See Letters from Jessica Matushek to USAC (May 20, 2016) (Attachments 4 & 5 at pp. 163-245). Frontier appealed the New Haven decision to the FCC on August 1, 2016. See Frontier, Petition for Waiver and Request for Review, CC Docket No. 02-6 (Aug. 1, 2016).

³³ See Letter from USAC to Jessica Matushek (July 7, 2016) (Attachment 6 at pp. 246-48) (“USAC Hartford Decision”); Letter from USAC to Jessica Matushek (July 7, 2016) (Attachment 7 at pp. 249-51) (“USAC Bridgeport Decision”).

deadline.³⁴ Similarly, USAC did not address the issues of notice or lack of communications raised in Frontier's Hartford appeal.³⁵

E. Bridgeport and Hartford's Appeal.

Separately from Frontier, on August 5, 2016, Bridgeport and Hartford, jointly with several other school districts, filed at the Commission appealing USAC's decisions to reject funding.³⁶ Bridgeport and Hartford explained that on October 27, 2015, they had requested an extension of the invoicing deadline but did not receive the actual extension until January 18, 2016. With the extension only extending the deadline until February 25, 2016, Bridgeport and Hartford were effectively left with only 38 out of the 120 promised days. As explained in that appeal, FCC rules require that USAC grant a 120-day extension.³⁷

Frontier now files this Request for Review and Petition for Waiver.

II. THE COMMISSION ROUTINELY ALLOWS CARRIERS THE OPPORTUNITY TO RESPOND TO USAC REQUESTS FOR INFORMATION IN CIRCUMSTANCES SUCH AS THOSE HERE.

It is well-settled that applicants like Frontier, Bridgeport, and Hartford should have an opportunity to correct any issues with delays in providing some documents in response to a USAC request for information, particularly where, as here, the applicant remains in continued communication, has provided portions of documentation, and is seeking in good faith to provide

³⁴ See USAC Bridgeport Decision.

³⁵ See USAC Hartford Decision

³⁶ See Consolidated Request for Review and/or Waiver By ADA Public Library et al. of Funding Decisions by the Universal Administrative Company, CC Docket No. 02-6 (Aug. 5, 2016) ("*Bridgeport and Hartford Request for Review*").

³⁷ See generally *id.*; see also 47 C.F.R. § 54.514.

all requested documentation.³⁸ For example, in *Alpaugh Unified School District*, the FCC granted 78 appeals of USAC decisions reducing or denying funding on precisely these grounds – i.e., “that applicants failed to respond to USAC’s requests for information within the USAC-specified time frame.”³⁹ As the Commission explained, this type of appeal “involve[s] a procedural error, . . . not a failure to adhere to a core program requirement or a misuse of funds.”⁴⁰ Because “any violations that occurred were procedural, not substantive,” the Commission found “that the complete rejection of these applications [wa]s not warranted.”⁴¹ The Commission found that rejecting funding because of a “processing deadline, not a program rule,” unnecessarily deprived schools of funding and does not serve the public interest.”⁴²

Indeed, the Commission instructed USAC to continue working with applicants after the targeted deadline and to develop better outreach procedures – the very problems that occurred here. In particular, where, as here, an applicant is working with USAC and is continuously in contact to submit requested paperwork, the FCC explained that “USAC shall continue . . . to work beyond the 15 days with applicants.”⁴³ Anticipating the very problem that occurred here – stemming from a lack of direct communication – the FCC “direct[ed] USAC to develop outreach procedures designed to better inform applicants of the additional information that may be needed and to provide applicants with a 15-day opportunity to respond to such request.”⁴⁴

³⁸ See *Alpaugh Unified*.

³⁹ *Id.* ¶ 1.

⁴⁰ *Id.* ¶ 5.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.* ¶ 6 n.14.

⁴⁴ *Id.* ¶ 1.

The FCC has repeatedly reaffirmed these principles and allowed parties another opportunity to respond.⁴⁵ Virtually every month in the Commission’s streamlined resolution of requests related to actions by USAC, the Commission grants parties, like Frontier, Bridgeport, and Hartford here, an opportunity to respond to USAC’s requests for information.⁴⁶

Furthermore, the lack of a formal ruling associated with the request and the lack of response to Frontier’s further correspondence is especially strange considering that a formal decision and the opportunity for carriers to respond is a hallmark of the Beneficiary and Contributor Audit Program (“BCAP”).⁴⁷ As USAC explains, after a BCAP audit is completed, an exit conference is held with the auditee to review the results of the audit and the next steps of the process. The auditee is then given an opportunity to provide responses to the audit findings, with USAC management preparing a response to address the conditions and corrective actions. Although Frontier, Bridgeport, and Hartford are being deprived of hundreds of thousands of dollars here, Frontier, Bridgeport, and Hartford were not granted any of these formal processes. USAC’s failure to provide adequate processes associated with this request for information – particularly related to the requestors’ failure to respond to Frontier’s correspondence – violates Frontier’s, Bridgeport’s, and Hartford’s Fourth Amendment due process rights.

⁴⁵ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Ben Gamla Palm Beach Boynton Beach, Florida et al.*, Order, 29 FCC Rcd 1876 (2014).

⁴⁶ See, e.g., *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, Public Notice, DA 16-600 (May 31, 2016); *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, Public Notice, DA 16-472 (Apr. 29, 2016); *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, Public Notice, DA 16-334 (Mar. 30, 2016).

⁴⁷ See USAC, *Beneficiary and Contributor Audit Program*, <http://www.usac.org/about/about/program-integrity/bcap.aspx>.

III. A PORTION OF THE BRIDGEPORT INVOICES WERE DENIED DUE TO A CLERICAL AND MINISTERIAL ERROR, WHICH THE COMMISSION ROUTINELY ALLOWS APPLICANTS TO CORRECT.

Frontier, Bridgeport, and Hartford were denied \$122,830.05 in funding due to a straightforward ministerial and clerical error in the funding request – a simple miscalculation of 0.1%. Specifically, Frontier requested discounted funding of \$122,830.05, but this funding was denied because it was a fraction of a percent more than the approved 88% discount – Frontier, due to a calculation error, had inadvertently requested \$187.85 too much in funding, or 0.1% too much out of a total request of \$122,830.05.⁴⁸ As explained directly below, Frontier also timely resubmitted these invoices along with the other Bridgeport invoices in advance of the deadline, but these invoices were denied due to USAC erroneously processing these invoices as submitted days after when they were actually submitted.

The Commission routinely allows applicants to correct these types of ministerial and clerical errors. For example, in the Commission’s *Ann Arbor Order*, the Commission allowed an applicant to correct this type of simple calculation error.⁴⁹ And the Commission will waive filing deadlines for good cause if applicants appeal within a reasonable period of time after actual notice of a clerical error.⁵⁰ Likewise, USAC routinely allows correction of “[s]imple addition, subtraction, multiplication or division errors,” such as here.⁵¹

The Commission should thus allow Frontier to correct this ministerial and clerical error and direct USAC to process these invoices. Alternatively, because, as described immediately

⁴⁸ See Statement of Jennifer Oleniak.

⁴⁹ See *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools et al.*, Order, 25 FCC Rcd 17319 ¶ 2 & n.11 (WCB 2010) (“*Ann Arbor Order*”).

below, Frontier resubmitted these invoices on time, the Commission should direct USAC to process these invoices and allow Frontier to make any necessary ministerial and clerical corrections.

IV. FRONTIER RESUBMITTED THE BRIDGEPORT INVOICES ON TIME.

In addition to the miscommunications during the request for information process, this Request for Review involves a straightforward processing error by USAC. For the Bridgeport invoices at issue, Frontier resubmitted the invoices for review prior to the February 25, 2016 deadline.⁵² Specifically, Frontier submitted the relevant invoices by email on February 25, 2016 at 4:39 PM.⁵³ Frontier did not receive any notification that that these submission were not received on time. On March 3, 2016, however, Frontier received an Electronic Remittance Statement⁵⁴ indicating, without explanation, that the invoices at issue were received February 29 rather than February 25 – the time of the email submission.

Frontier requests that the Commission correct this straightforward processing error. To the extent necessary, Frontier also requests a waiver of the deadline to allow USAC to fully process these invoices.

⁵⁰ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Assabet Valley Regional Vocational District*, Order, 27 FCC Rcd 1924 ¶ 1 & n.4 (WCB 2012).

⁵¹ See USAC, *Ministerial & Clerical Errors* (last accessed Aug. 31, 2016), <http://usac.org/sl/applicants/step01/clerical-errors.aspx>.

⁵² See Frontier Bridgeport Appeal. Please note that USAC routinely solicits resubmission of invoices. See, e.g., USAC, *Electronic Invoicing* (last accessed Aug. 26, 2016), <http://usac.org/sl/service-providers/step05/electronic-invoicing.aspx>.

⁵³ See *Frontier Bridgeport Appeal* (Attachment 2 at pp. 72-73).

⁵⁴ See *Frontier Bridgeport Appeal* (Attachment 2 at p. 74).

V. FRONTIER, BRIDGEPORT, AND HARTFORD ONLY RECEIVED A 38-DAY RATHER THAN THE REQUIRED 120-DAY EXTENSION.

As Bridgeport and Hartford explained in their joint appeal, even though they timely submitted extension requests, USAC did not grant them a full 120-day extension as required by FCC rules.⁵⁵ Both Bridgeport and Hartford requested an extension on October 27, 2015, in advance of the invoicing deadline but did not receive the extension until January 18, 2016. This effectively left the districts only 38 out of the 120 required days for the extension before the new deadline of February 25, 2016. As explained in Bridgeport and Hartford's appeal, FCC rules require that USAC grant a 120-day extension.⁵⁶ This timeline was especially problematic because USAC's procedures prohibited Frontier, Bridgeport, and Hartford from submitting their invoices until they had their extension deadline requests approved by USAC.⁵⁷ Frontier thus, for all the reasons explained in the *Bridgeport and Hartford Request for Review*, respectfully requests that the Commission remand the invoices back to USAC so that applicants may have the full 120-day period for processing of their invoice requests.

VI. TO THE EXTENT NECESSARY, FRONTIER REQUESTS A WAIVER OF THE INVOICING DEADLINE OR ANY OTHER RULES SO THAT FRONTIER MAY HAVE AN OPPORTUNITY TO FULLY RESPOND TO THE REQUESTS FOR INFORMATION.

Finally, to the extent necessary or as alternative remedy, Frontier requests a waiver under 47 C.F.R. § 1.3 of the E-Rate invoicing submission deadline and any other rule the Commission believes necessary to effectuate the processing of these invoices. Although Frontier already submitted all necessary paperwork as an initial matter (the only issues were delayed

⁵⁵ See *Bridgeport and Hartford Request for Review*.

⁵⁶ See generally *id.*; see also 47 C.F.R. § 54.514.

⁵⁷ See *Bridgeport and Hartford Request for Review* at 2.

communications during USAC requests for information and a ministerial and clerical error), extension of the E-Rate invoicing submission deadline is an alternative remedy that could allow Frontier the opportunity to fully respond to USAC’s request for information and ensure that Bridgeport, Hartford, and Frontier are not unnecessarily deprived of \$550,000 in critical E-Rate funding.

In its initial appeal to USAC, Frontier requested, “[t]o the extent necessary, . . . an extension of the invoice date so that USAC may cure the deficiencies in the processes associated with these bills and disburse the funding owed.”⁵⁸ Frontier specifically cited to the State E-Rate Coordinator’s Petition for Omnibus Waiver of Invoice Deadline Regulation (“SECA Petition”), and asked for an extension for all of the reasons stated therein.⁵⁹

As explained in this Request for Review and Petition for Waiver, Frontier, Bridgeport, and Hartford deserve relief for many reasons, and any extension would simply be an alternative or supplemental remedy. Indeed, in addition to all of these substantive bases for relief, Frontier, Bridgeport, and Hartford are in many ways more favorably situated than, for example, the schools and libraries subject to the Commission’s *April Order* underlying the SECA Petition.⁶⁰ As explained above, Frontier, Bridgeport, and Hartford timely submitted all original invoices

⁵⁸ See Frontier New Haven Appeal.

⁵⁹ See *id.*; State E-Rate Coordinators’ Alliance Petition for Omnibus Waiver of Invoice Deadline, CC Docket No. 02-6 (May 12, 2016) (“SECA Petition”).

⁶⁰ See *Requests for Waiver of Decisions of the Universal Service Administrator by Ada School District, Ada, Oklahoma et al.*, Order, 31 FCC Rcd 3834 (Apr. 25, 2016) (“April Order”). While the schools subject to the *April Order* failed to submit invoices and failed to timely request an initial extension, Frontier, Bridgeport, and Hartford here initially submitted all invoices, requested initial and second extensions in a timely manner, and have other avenues for relief.

and, unlike the appellants in the *April Order*, Frontier, Bridgeport, and Hartford timely submitted extension requests.

The SECA Petition nonetheless explains the extreme challenges faced by all E-Rate applicants with the significant reforms to the E-Rate program this past funding year and, indeed, requests that all waiver requests before the Commission and extension appeals before USAC be granted a 120-day extension, which would include Frontier's extension requests.⁶¹ Thus, if the Commission does not otherwise grant Frontier, Bridgeport, and Hartford relief related to the more than \$550,000 that is owed, Frontier renews its requests for a waiver of the invoicing deadline for the same reasons so many other applicants have faced challenges and disproportionate and draconian penalties.⁶²

Additionally, if the FCC believes waiver of the 60-day deadline to appeal USAC decisions under 47 C.F.R. § 54.719 or any other rules is necessary, Frontier also requests waiver of those rules. While Frontier timely appealed USAC's decision to deny its extension request and USAC's decision to deny its appeal of that decision, Frontier did not specifically appeal the remittance statements within 60 days because it was continuing to correspond with USAC auditors with the understanding that the audit was an ongoing process. Thus, to the extent necessary, good cause exists to waive the 60-day deadline because Frontier was in continued correspondence with USAC auditors, had provided services eligible for over \$550,000 in E-Rate funding, and had submitted all forms required by the program.

⁶¹ See *SECA Petition*.

⁶² See generally *id.*

VII. CONCLUSION

For the foregoing reasons, Frontier requests: (1) an opportunity to fully respond to all USAC requests for information so that Bridgeport, Hartford, and Frontier can receive the funding owed; (2) the FCC to direct USAC to process the Bridgeport invoices that Frontier resubmitted; (3) an opportunity to correct the ministerial and clerical 0.1% calculation error associated with certain Bridgeport invoices; (4) the FCC to direct USAC to allow Frontier, Bridgeport, and Hartford the full benefit of the required 120-day extension (5) to the extent necessary, a waiver of the Commission's rule requiring an appeal of a Universal Service Administrative Company ("USAC") decision within 60 days.⁶³

Respectfully submitted,

FRONTIER COMMUNICATIONS

/s/ AJ Burton

AJ Burton
FRONTIER COMMUNICATIONS
1800 M Street, NW, Suite 800N
Washington, D.C. 20036

September 2, 2016

⁶³ See 47 C.F.R. § 54.720.

CERTIFICATE OF SERVICE

This is to certify that on this 2nd day of September, a true and correct copy of the foregoing Request for Review and Petition for Waiver was sent via email to:

Schools and Libraries Division, Universal Service Administrative Company,
Appeals@sl.universalservice.org

/s/ AJ Burton